

Filed for intro on 05/21/97
SENATE BILL 2027 By
Elsea

HOUSE BILL 2019
By McKee

AN ACT to amend Chapter 48 of the Private Acts of 1919; as amended by Chapter 46 of the Private Acts of 1921; Chapter 137 of the Private Acts of 1943; Chapter 484 of the Private Acts of 1949; Chapter 492 of the Private Acts of 1949; Chapter 206 of the Private Acts of 1949; Chapter 113 of the Private Acts of 1961, Chapter 321 of the Private Acts of 1972, Chapter 14 of the Private Acts of 1977, Chapter 92 of the Private Acts of 1963; Chapter 230 of the Private Acts of 1980; Chapter 14 of the Private Acts of 1981 and Chapter 174 of the Private Acts of 1990; and any other acts amendatory thereto, and to amend Chapter 164 of the Private Acts of 1923; as amended by Chapter 538 of the Private Acts of 1923; relative to the charter of the City of Niota, Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 48 of the Private Acts of Tennessee for 1919, as amended by Chapter 46 of the Private Acts of 1921; Chapter 137 of the Private Acts of 1943; Chapter 484 of the Private Acts of 1949; Chapter 492 of the Private Acts of 1949; Chapter 206 of the Private Acts of 1949; Chapter 113 of the Private Acts of 1961, Chapter 321 of the Private Acts of 1972, Chapter 14 of the Private Acts of 1977, Chapter 92 of the Private Acts of 1963; Chapter 230 of the Private Acts of 1980; Chapter 14 of the Private Acts of 1981 and Chapter 174 of the Private Acts of 1990; and any other acts amendatory thereto, and Chapter 164 of the Private Acts of 1923; as amended by Chapter 538 of the Private Acts of 1923; relative to the charter of the City of Niota, Tennessee are amended by deleting such acts in their entirety and by substituting instead the following as a new charter:

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ARTICLE I

CORPORATE CAPACITY

Section 1. Incorporation, name and general powers. The City of Niota, in the County of McMinn and the inhabitants thereof, are hereby constituted a body politic and corporate by the style and the name of the City of Niota.

In that name the corporation shall have perpetual succession, may sue and be sued, may contract and be contracted with, may plead and be impleaded and both inside and outside the city, may grant, receive, purchase and hold property, real, personal, and mixed, and dispose of and convey the same for the benefit of the City.

Section 2. Boundaries. The boundaries of the City shall be comprised within the following metes and bounds, to-wit:

Beginning at a point eight hundred feet (800') east of the old road on the ridge southeast of the City of Niota, in line with the east and west line that runs south of the R. A. Johnson property; thence west with the aforesaid east and west line to the west side of the Southern Railway right-of-way; thence southwest with said right-of-way to the line between J. G. Willson and J. C. Cate; thence west, passing between the residences of J. C. Cate III and J. G. Willson, to the west side of the Lee Highway; thence southwest with said Lee Highway eight hundred feet (800'); thence west to a point eight hundred feet (800') perpendicular from Little Mouse Creek; thence in a northeasterly direction up the valley, parallel with the creek but eight hundred feet (800') therefrom, to the property line of Tom Sherman and Tola S. Walker; thence west with said Sherman-Walker property line to their southwest corner; thence in a northerly direction to the northwest corner of the J. P. Brady barn on top of the hill; thence in a northerly direction, passing to the west of the Will Arnwine residence, to a point eight hundred feet (800') perpendicular to and northeast of the Union Grove Road; thence in a southeasterly direction, passing to the north of the Sherman-Walker residence, to the southeast side of Willson Street, (the Lee Highway); thence northeast with the southeast side of Willson Street

(the Lee Highway) to the intersection of old Niota-Sweetwater graded road: thence south with the west side of said road to the northwest side of the Southern Railway right-of-way to the present city limits; thence southeast across the railroad and right-of-way; thence in an easterly direction, passing fifty feet (50') north of the residence of Tom Brakebill, to a point eight hundred feet (800') perpendicular to the old Niota-Sweetwater graded road; thence south to the eastern brow of the ridge; thence in a southwesterly direction with the eastern brow of the ridge passing to the southeast of the residences of Otis Cobble, Leslie DeWitt and Nannie Moree, also southeast of the city water reservoir, to the point of the beginning, and as further amended pursuant to general law.

ARTICLE II

POWERS

Section 1. Powers enumerated. The Mayor and Board of Commissioners shall have the power by ordinance to:

- (1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for state, county or municipal purposes;
- (2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;
- (3) Make special assessments for local improvements;
- (4) Contract and be contracted with;
- (5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;
- (6) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the municipality, upon the credit of the municipality or solely upon the credit of specific property owned by the municipality or solely upon the credit of income derived

from any property used in connection with any public utility owned or operated by the municipality, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the municipality for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the municipality or state;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the municipality, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of state law, or in any other manner provided by law;

(10) Take and hold property within or without the municipality or state upon trust; and administer trusts for the public benefit;

(11) Inside or outside the municipality acquire, construct, own, regulate, operate, and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the municipality, its inhabitants, or any part thereof, and, further, may issue debt for these purposes under the state law;

(12) Grant to any person, firm, association or corporation (including the municipality) franchises for public utilities and public services to be furnished to the municipality and those therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the municipality itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The board may prescribe in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in

accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and as the corporate limits may be enlarged, and to the existing streets, alleys and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities, and public services to be furnished to the municipality and those therein. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The board may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, compel reasonable extensions of facilities for these services, and assess fees for the use of or impact upon these services. Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or

without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property therefor under the provisions of state law or any other manner provided by general laws;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by, state law or any other manner provided by general laws;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removal, abolishing, and prohibiting of closets and privies, in such manner as there may be provided by general law or by ordinance of the board;

(18) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal, and the cost of collection, regulation, or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Regulate the location, bulk, occupancy, area, lot, height, construction and materials of all buildings and structures, and inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(25) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(26) Purchase or construct, maintain and establish a workhouse for the confinement and detention of any person convicted in the city court of offenses against the laws and ordinances of the municipality who fails to secure the civil penalty imposed upon such person, or contract with the county to keep these persons in the workhouse of the county and provide by that contract and by ordinance for the commitment of these persons to the workhouse so provided until the civil penalties are paid;

(27)

(A) Enforce any ordinance, rule or regulation by civil penalties and forfeitures, and by other actions or proceedings in any court of competent jurisdiction.

(B) No civil penalty may exceed five hundred dollars (\$500.00) for any one (1) offense;

(28) Establish schools, determine the necessary boards, officers and teachers required therefor, and fix their compensation; purchase or otherwise acquire land for or assess a fee for use of, or impact upon, schoolhouses, playgrounds and other purposes connected with the schools, purchase or erect all necessary buildings and do all other acts necessary to establish, maintain and operate a complete educational system within the municipality;

(29) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or kill them;

(30) Call elections as herein provided; and

(31) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated.

ARTICLE III

ELECTIONS

Section 1. Date of general City election. A general City election shall be held on the first Tuesday after the first Monday in November in each even-numbered year.

Section 2. General election laws apply. All elections shall be conducted by the Commissioners of Elections of McMinn County in accordance with the general election laws and this Charter.

Section 3. Voter qualification requirements. Any person who is a resident of the City of Niota and qualified to vote for members of the General Assembly and other civil officers for McMinn County shall be entitled to vote in elections for Mayor and Board of Commissioners.

ARTICLE IV

MAYOR AND BOARD OF COMMISSIONERS

Section 1. Composition, eligibility, election, terms, and re-election.

(a) Composition. There shall be a Mayor and Board of Commissioners composed of the Mayor and five (5) Commissioners.

(b) Eligibility. Only registered voters of the City who are bona fide citizens, and residents of the City for at least one (1) year before the day of their election, shall be eligible to seek and hold the office of Commissioner or Mayor.

(c) Election and Terms. It is the intent of this Charter to continue the existing pattern of precisely staggered four-year terms for the positions of Mayor and Commissioner. The terms of office for those city officials elected in November, 1998 and in all even-numbered years thereafter shall commence with their taking their oath of office at the first regular meeting of the Mayor and Board of Commissioners following the certification of the election by the McMinn County Election Commissioners. The current elected positions of Board of Education members shall end with the city election held in November, 1998. The position of Board of Education member shall be eliminated.

Section 2. Compensation; expenses. Until otherwise established by ordinance by the Mayor and Board of Commissioners, the monthly salary of the Mayor and Board of Commissioners shall be fifty dollars (\$50.00) for the Mayor and twenty-five dollars (\$25.00) for each Commissioner. Any ordinance establishing or increasing salaries must receive final reading ninety (90) days prior to the next election and shall become effective for those officials elected at the next general election and effective for the remaining officials elected two (2) years

later. Any elected official failing to attend a regular meeting of the Mayor and Board of Commissioners shall not receive compensation for the month such official fails to be present at the regular meeting unless prevented by sickness. The Mayor and Board of Commissioners may receive their actual and necessary expenses incurred in the performance of their duties of office, if authorized by ordinance.

Section 3. Duties of the Mayor. The Mayor shall be the Chief Executive Officer of the municipality and shall preside at meetings of the Board. The Mayor shall communicate any information needed, and recommend, to the Board, measures the Mayor deems expedient. The Mayor shall countersign checks and drafts drawn upon the treasury by the Recorder and sign all contracts to which the municipality is a party. As a member of the Board, the Mayor may speak and make motions but shall vote only in case of a tie. The Mayor shall make appointments to Boards and Commissions as authorized by law and shall perform such other duties as may be designated or required by the Board.

Section 4. Vice-mayor.

(a) The Mayor and Board of Commissioners at the first regular meeting following each regular city election shall elect a Commissioner to the office of Vice-mayor who shall serve as Mayor when the Mayor is absent or unable to discharge the duties of the Mayor's office, and, in case of a vacancy in the office of Mayor, for the remainder of the unexpired term.

(b) If the Vice-mayor fills a vacancy in the office of Mayor, the remaining members of the Board shall elect from their membership a new Vice-mayor who shall serve until the first regular meeting of the Mayor and Board of Commissioners following the next regular City election.

(c) In the absence of the Mayor and Vice-mayor the Board of Commissioners shall designate one of its number to preside at meetings, and who shall retain all of the voting rights of a Commissioner.

Section 5. Commissioners. The Mayor and Board of Commissioners shall, at the first regular meeting after their election and qualification, designate by majority vote: (1) the member who shall have charge of the finances of the City as Commissioner of Finance and Taxation; (2) the member who shall have charge of the police department as Commissioner of Police; (3) the member who shall have charge of the streets, alleys and public places of the City as Commissioner of Streets; (4) the member who shall have charge of the public utilities as Commissioner of Public Utilities; and (5) the member who shall have the supervision of sanitary conditions within the City as Commissioner of Sanitation.

The Commissioner of Finance and Taxation shall have general supervision of the finances of the City.

The Commissioner of Police shall have charge of the Police Department.

The Commissioner of Streets shall have general supervision of the streets, alleys, parks and all public places within the municipality and it shall be his duty to see that no fences or buildings shall encroach upon the established width of the streets, alleys and other public places within the City.

The Commissioner of Public Utilities shall have general supervision of the water works, and any public utility hereinafter established by the municipality.

The Commissioner of Sanitation shall, as far as practicable, keep the City free from garbage and refuse of all kinds, and may make contracts for the removal of all refuse matter, as authorized by ordinances duly adopted. He shall also have general supervision of any sewage disposal system, when and if established.

The designation of any Commissioner as herein provided may be changed by a majority vote of the Mayor and Board of Commissioners, but they shall not shift any Commissioner from the head of one department to a head of another department more often than once in six (6) months.

Each Commissioner shall, at the meetings of the Board, make a full report on all matters under his charge and such matters shall be acted on and approved or rejected by the Mayor and Board of Commissioners. All other matters not coming directly under either of the heads hereinabove assigned shall be handled by members of the Board jointly, or as may be agreed upon.

Section 6. Prohibitions.

(a) Holding Other Office. Neither the Mayor nor any member of the Board of Commissioners shall hold any other City office or employment during the term for which he was elected to the office of Mayor and/or Commissioner. No former member of the Mayor and Board of Commissioners shall hold any compensated appointive office or employment with the City until one (1) year after the expiration of the term for which he was elected to the office of Mayor or Commissioner. Nothing in this section shall be construed to prohibit the Mayor and Board of Commissioners from selecting any current or former member of the Mayor and Board of Commissioners to represent the City on the governing board of any regional or other intergovernmental agency.

Section 7. Vacancies; forfeiture of office; filling of vacancies.

(a) Vacancies. The office of Mayor or Commissioner shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. The Mayor or Commissioner shall forfeit that office if the Mayor or Commissioner:

- (1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law;
- (2) Is convicted of a state or federal felony, appeals notwithstanding;

(3) Fails to attend three (3) consecutive regular meetings of the Mayor and Board of Commissioners without being excused by the Mayor and Board of Commissioners; or

(4) Fails to maintain a bona fide residence within the City.

(c) Filling of Vacancies. A vacancy in the Office of Commissioner shall be filled for the remainder of the unexpired term, by a majority vote of all of the remaining members of the Board of Commissioners. If the Board of Commissioners fails to do so within sixty (60) days following the occurrence of the vacancy, the Mayor shall notify the McMinn County Election Commission, who shall call a special election to fill the vacancy for the unexpired term. A special election shall be held not sooner than seventy-five (75) days and not later than ninety (90) days thereafter, and shall be governed by the general election laws of the state, except that no special election shall be held within thirty (30) days of the next regular election.

Section 8. Investigations. The Mayor and Board of Commissioners may make investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. The Mayor and Board of Commissioners shall have the same powers as a general sessions court to punish for refusal to obey such an order or subpoena or for disorderly or contemptuous behavior in the presence of the Mayor and Board of Commissioners.

Section 9. Time and place of meetings. The Mayor and Board of Commissioners shall, by ordinance, fix the time and place at which the regular meetings of the Mayor and Board of Commissioners shall be held. Until otherwise provided by ordinance, the regular meeting of the Mayor and Board of Commissioners shall be held at 7:00 P.M. on the second Monday of each month. When such day falls on a legal holiday, the meeting shall be on the next following day unless otherwise prescribed by the Mayor and Board of Commissioners.

Whenever in the opinion of the Mayor or of any two (2) Commissioners, the welfare of the City demands it, the Recorder shall call a special meeting of the Mayor and Board of Commissioners, by publishing or broadcasting a notice of at least twenty-four (24) hours before the meeting.

Section 10. Oath of office. The Mayor and Commissioners, before entering upon their duties, shall each take and subscribe and file with the Recorder an oath or affirmation to support the Constitution of the United States and of the State of Tennessee and the Charter and Ordinances of the City of Niota, and that he will faithfully discharge the duties of his office.

Section 11. Quorum. Three (3) members of the Board of Commissioners shall constitute a quorum for the transaction of business, but any smaller number may adjourn from day to day. The Mayor shall have no vote except in the case of a tie vote of the Commissioners, in which event the Mayor shall have the deciding vote. The affirmative vote of three (3) members of the Board of Commissioners, or of the Mayor and two (2) of the members of the Board of Commissioners in the case of a tie, shall be necessary to adopt any motion, resolution or ordinance, or to pass any measure.

Section 12. Procedure for adopting ordinances. All ordinances shall begin with the clause: "Be it ordained by the Mayor and Board of Commissioners of the City of Niota, Tennessee:". An ordinance may be introduced by the Mayor or any of the five (5) Commissioners. The body of ordinances may be omitted from the minutes on first passage, but reference therein shall be made to the ordinance by title and subject matter. Every ordinance shall be passed on two (2) different days, at regular, special or adjourned meetings, with at least one (1) passage occurring at a regular meeting. Copies of the text of every ordinance must be made available to the public during every meeting in which the ordinance is subject to passage. Every ordinance must receive at least a majority vote on each passage as defined in Section 11 of this Article. Every ordinance shall be effective upon final passage unless by its terms the effective date is deferred. Every ordinance upon final passage shall be signed by the

Mayor, and shall be immediately taken charge of by the Recorder and numbered, copied in an ordinance book and there authenticated by the signature of the Recorder, and filed and preserved in the Recorder's office.

Section 13. Legislative action which must be exercised by ordinance. Except as otherwise provided by general law or this Charter, legislative action of the Mayor and Board of Commissioners shall be by ordinance when granting, renewing or extending public franchises; creating, abolishing or combining departments or offices; authorizing the borrowing of money; adopting a budget regulating the rate charged for its services by a public utility; fixing fees, service charges and utility rates; levying taxes; providing a civil or other penalty or establishing a rule or regulation for violation of which a civil or other penalty is imposed; or amending or repealing an existing ordinance.

ARTICLE V

CITY ATTORNEY

Section 1. Qualifications. The City Attorney shall be an attorney at law entitled to practice in the courts of the State of Tennessee.

Section 2. Appointment, duties, and compensation. The City Attorney shall be appointed by the Mayor and Board of Commissioners and shall direct the management of all litigation in which the City is a party, including the function of prosecuting attorney in the City Court; represent the City in all legal matters and proceedings in which the City is a party or interested, or in which any of its officers is officially interested; attend all regular Mayor and Board of Commissioners meetings and any other meetings when requested by the Mayor and Board of Commissioners; advise the Mayor and Board of Commissioners, and committees or members thereof, and the heads of all departments and divisions as to all legal questions affecting the City's interests; and approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the City. His compensation

shall be as fixed by the Mayor and Board of Commissioners and he shall serve at the will of the Mayor and Board of Commissioners.

ARTICLE VI

RECORDER

Section 1. Appointment, compensation and specific requirements, powers and duties of office. The Recorder shall be appointed by the Mayor and Board of Commissioners, and shall serve at the will and pleasure of the Board. He shall receive a salary to be fixed by the Mayor and Board of Commissioners and give such bond to the City for not less than ten thousand dollars (\$10,000), or as may be provided by ordinance. The cost of such bond shall be an expense of the City. When required he shall by his signature attest instruments signed in the name of the City and official acts of the Mayor. He shall have power to administer oaths.

Section 2. Shall keep minutes. It shall be the duty of the Recorder to be present at all meetings of the Mayor and Board of Commissioners and to keep a full and accurate record of all business transacted by the same, to be preserved in permanent book form.

Section 3. Shall be custodian of public records, bonds, etc. The Recorder shall have custody of and preserve in his office, the public records, ordinance books, minutes of the Mayor and Board of Commissioners, contracts, bonds, title deeds, certificates and papers, all official indemnity or security bonds (except his own bond, which shall be in the custody of the Mayor), and all other bonds, oaths and affirmations, and all other records, papers and documents not required by this Charter or by ordinance to be deposited elsewhere, and register them by numbers, dates and contents, and keep an accurate and modern index thereof.

Section 4. Shall provide and certify copies of records, papers, etc. The Recorder shall provide, and, when required by any officer or person, certify copies of records, papers and documents in his office and charge therefor, for the use of the City, such fees as may be provided by ordinance and cause copies of ordinances to be printed, as may be directed by the Mayor and Board of Commissioners, and kept in his office for distribution.

Section 5. Shall generally supervise and keep records of fiscal affairs. The Recorder shall be the general bookkeeper of the City and shall have custody of all papers, records and vouchers relating to the fiscal affairs of the City, and the records in his office shall show the financial operations and condition, property, assets, claims and liability of the City, all expenditures authorized and all contracts in which the City is interested.

Section 6. Shall be Treasurer. The Recorder shall be the Treasurer of the City; as such it shall be his duty to collect, receive and receipt for the taxes and all other revenues and bonds of the City, and the proceeds of its bond issues, and to disburse the same.

Section 7. Shall perform any other duties imposed. The Recorder shall also perform any other duties imposed upon him by this Charter or by ordinance.

ARTICLE VII

ADMINISTRATION

Section 1. Departments, offices, and agencies generally. The Mayor and Board of Commissioners may establish City departments, offices, or agencies in addition to those created by this Charter, and may prescribe the functions of all departments, offices and agencies not inconsistent with this Charter. Departments, offices and agencies created by the Mayor and Board of Commissioners may be abolished or combined.

Section 2. Personnel rules. The Mayor and Board of Commissioners may adopt personnel rules which shall include but not be limited to:

- (1) Job descriptions;
- (2) A pay plan; and
- (3) The hours of work, attendance regulations and provisions for sick leave and vacation leave.

Section 3. Officers, employees, etc., who handle money shall be bonded. Every officer, agent and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a surety bond with a surety company

authorized to do business in the State of Tennessee, as surety, in such amount as shall be prescribed by ordinance or this Charter. All such bonds and sureties shall be subject to the approval of the Mayor and Board of Commissioners, and the Mayor and Board of Commissioners may provide for blanket bonds. The cost of all bonds shall be an expense of the City.

ARTICLE VIII

FINANCE

Section 1. Fiscal year. The fiscal year of the City shall begin on the first day of July and end on the last day of June.

Section 2. Annual department budgets required. The adoption of an annual budget for all departments shall be a prerequisite to the appropriation of money for municipal purposes and the levy of property taxes.

Section 3. City required to prepare and submit annual budget and explanatory message. At least sixty (60) days before the beginning of the fiscal year the individual Commissioners and their respective departments shall prepare and submit to the Mayor and Board of Commissioners a budget for the ensuing fiscal year and an accompanying message. The message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other materials as deemed desirable.

Section 4. Required content and organization of budget. The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year, and, except as required by law or this Charter, shall be in such form as deemed desirable by the Mayor and Board of Commissioners.

Section 5. Amendments to budget, when budget must be adopted, and effect of adoption. The Mayor and Board of Commissioners shall adopt the budget by ordinance. The Mayor and Board of Commissioners may amend the budget by ordinance, but no amendment shall decrease expenditures required by law for debt service. The budget shall be adopted for the ensuing fiscal year before the end of the current fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated. The Mayor and Board of Commissioners shall also adopt an ordinance establishing a property tax levy.

Section 6. Supplemental appropriations. If during the fiscal year the Commissioner of Finance certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Mayor and Board of Commissioners by ordinance may make supplemental appropriations for the year up to the amount of such excess.

Section 7. Deficits. If at any time during the fiscal year it appears probable to the Commissioner of Finance that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Mayor and Board of Commissioners without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Mayor and Board of Commissioners shall then take such further action as they deem necessary to prevent or minimize any deficit and for that purpose they may by ordinance reduce appropriations.

Section 8. Transfer of unencumbered appropriations. At any time during the fiscal year the Mayor and Board of Commissioners may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and the Mayor and Board of Commissioners may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

Section 9. Lapsing of appropriations. Every appropriation shall lapse at the end of the fiscal year to the extent that it has not been expended or encumbered.

Section 10. Incurrence and discharge of obligations. No payment shall be made or obligation incurred against any appropriation unless the Commissioner of Finance or an officer designated by him first certifies that an appropriation has been made for that purpose and that there is unexpended and unencumbered in the appropriation for that purpose an amount sufficient to meet the obligation or to make the expenditure. However, except where prohibited by law, nothing herein shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

Section 11. Accounting records and audits. There shall be installed and maintained adequate accounting records in accordance with generally accepted principles of municipal accounting. The same account titles shall be used throughout the accounting records, the budget and financial statements. Constant and comprehensive budgetary control shall be maintained. An audit of the financial affairs of the City shall be required by action of the Mayor and Board of Commissioners and same be made after the end of each fiscal year by a public accountant skilled in such work. Any taxpayer may file a bill in chancery court to compel the Mayor and Board of Commissioners to have the audit made if such accountant has not been employed within one (1) month after the end of the fiscal year.

Section 12. Competitive bidding and purchasing procedures. Purchasing and bidding procedures shall be established by ordinance in accordance with state law.

ARTICLE IX

TAXATION

Section 1. Assessment and levy. All property within the City not exempt by general law shall be assessed for taxation upon the same principles established in regard to state and county taxation.

Section 2. Due and delinquent dates; penalties and interest. Property taxes shall be payable on and after October 1 in the year for which assessed and shall become delinquent on March 1 following.

Unless otherwise provided by ordinance, all delinquent taxes shall bear interest at six percent (6%) per annum. A penalty of one-half of one percent of the amount of the delinquent taxes shall also be added on the first day of March, and on the first day of each month thereafter, which penalty shall be in addition to the interest as hereinabove provided.

Section 3. Collection of delinquent taxes. The Mayor and Board of Commissioners may provide by ordinance for the collection of delinquent real property taxes by the Recorder as provided by general law, or by the City Attorney acting in accordance with general laws providing for the collection of delinquent City or county taxes. If not otherwise collected, the City Attorney, or other attorney designated by the Mayor and Board of Commissioners, shall file suit for collection of all delinquent taxes not later than eighteen (18) months following date of delinquency.

Section 4. County may collect taxes. The City may contract with the county for the collection of City taxes in accordance with general law.

ARTICLE X

CITY COURT

Section 1. City court established. A City Court is hereby established and granted jurisdiction over all infractions of municipal ordinances of the City of Niota.

Section 2. Appointment, qualifications, oath, compensation, and restrictions on office of City Judge. The City Judge shall be appointed by the Mayor and Board of Commissioners at the first regular meeting in December following the regular city election in November of each even-numbered year and shall serve for two (2) years and until his successor is appointed and has taken his oath of office. The City Judge shall be an attorney licensed to practice law in the State of Tennessee.

The City Judge shall be eligible for re-appointment. He shall take the same oath required of the Mayor and Board of Commissioners. The Mayor and Board of Commissioners shall establish the compensation of the City Judge by ordinance. The City Judge shall not be eligible to hold other elective offices for the City of Niota, or to hold another position of employment with the City of Niota.

Section 3. Duties and powers of the City Judge. The City Judge shall try all persons charged with violation of the ordinances of the City. He shall have the power to levy civil penalties and forfeitures in accordance with such offense and to impose such costs as the Mayor and Board of Commissioners may by ordinance provide, to issue all necessary process, to administer oaths, and to punish for contempt.

Section 4. Court policies and procedures. The policies and procedures governing the day to day operations of the court shall be provided by ordinance.

Section 5. City Judge to be exclusive judge of law and facts. The City Judge shall be the exclusive judge of the law and facts in every case before him, and no official or employee of the City shall attempt to influence his decision except through pertinent facts presented in court.

ARTICLE XI

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Section 1. Corporate existence, existing ordinances and resolutions. The corporate existence of the City of Niota is continued. All existing ordinances, resolutions or other actions of the Mayor and Board of Commissioners not inconsistent with this Charter shall remain in full force and effect until amended or repealed in the manner herein provided.

Section 2. Expiration of terms of elected officers. The Mayor and Board of Commissioners in office when this Act is ratified shall continue in office as the Mayor and Board of Commissioners until their successors are elected and qualified.

Section 3. Legal effect of this Act. This Act is declared to be a Public Act, and may be read in evidence in all courts of law and equity. All ordinances and resolutions and proceedings

of the Mayor and Board of Commissioners created by this Charter may be proven by the attestation of the Recorder, and, when printed and published by the authority of the Corporation and certified by the Recorder, shall be received in evidence in all courts and places without further proof.

Section 4. Severability. If any article, section, subsection, paragraph, sentence, or part of this Charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any other parts of this Charter unless it clearly appears that such other parts are necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the legislative intent in enacting this Charter that each article, section, subsection, paragraph, sentence, or part be enacted separately and independently of each other.

Section 5. Gender. Wherever, in this Charter, "man, men, him, his" or their related pronouns may appear, either as words or as parts of words, they have been used for literary purposes and are meant in their generic sense (i.e., to include all humankind - both female and male sexes).

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the entire membership of the Board of Commissioners of the City of Niota. Its approval or nonapproval shall be proclaimed by the Mayor of the City of Niota and certified by him to the Secretary of State.

SECTION 3. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 2.

AN ACT to amend Chapter 48 of the Private Acts of 1919; as amended by Chapter 46 of the Private Acts of 1921; Chapter 137 of the Private Acts of 1943; Chapter 484 of the Private Acts of 1949; Chapter 492 of the Private Acts of 1949; Chapter 206 of the Private Acts of 1949; Chapter 113 of the Private Acts of 1961, Chapter 321 of the Private Acts of 1972, Chapter 14 of the Private Acts of 1977, Chapter 92 of the Private Acts of 1963; Chapter 230 of the Private Acts of 1980; Chapter 14 of the Private Acts of 1981 and Chapter 174 of the Private Acts of 1990; and any other acts amendatory thereto, and to amend Chapter 164 of the Private Acts of 1923; as amended by Chapter 538 of the Private Acts of 1923; relative to the charter of the City of Niota, Tennessee.

AN ACT to amend Chapter 48 of the Private Acts of 1919; as amended by Chapter 46 of the Private Acts of 1921; Chapter 137 of the Private Acts of 1943; Chapter 484 of the Private Acts of 1949; Chapter 492 of the Private Acts of 1949; Chapter 206 of the Private Acts of 1949; Chapter 113 of the Private Acts of 1961, Chapter 321 of the Private Acts of 1972, Chapter 14 of the Private Acts of 1977, Chapter 92 of the Private Acts of 1963; Chapter 230 of the Private Acts of 1980; Chapter 14 of the Private Acts of 1981 and Chapter 174 of the Private Acts of 1990; and any other acts amendatory thereto, and to amend Chapter 164 of the Private Acts of 1923; as amended by Chapter 538 of the Private Acts of 1923; relative to the charter of the City of Niota, Tennessee.

AN ACT to amend Chapter 48 of the Private Acts of 1919; as amended by Chapter 46 of the Private Acts of 1921; Chapter 137 of the Private Acts of 1943; Chapter 484 of the Private Acts of 1949; Chapter 492 of the Private Acts of 1949; Chapter 206 of the Private Acts of 1949; Chapter 113 of the Private Acts of 1961, Chapter 321 of the Private Acts of 1972, Chapter 14 of the Private Acts of 1977, Chapter 92 of the Private Acts of 1963; Chapter 230 of the Private Acts of 1980; Chapter 14 of the Private Acts of 1981 and Chapter 174 of the Private Acts of 1990; and any other acts amendatory thereto, and to amend Chapter 164 of the Private Acts of 1923; as amended by Chapter 538 of the Private Acts of 1923; relative to the charter of the City of Niota, Tennessee.

AN ACT to amend Chapter 48 of the Private Acts of 1919; as amended by Chapter 46 of the Private Acts of 1921; Chapter 137 of the Private Acts of 1943; Chapter 484 of the Private Acts of 1949; Chapter 492 of the Private Acts of 1949; Chapter 206 of the Private Acts of 1949; Chapter 113 of the Private Acts of 1961, Chapter 321 of the Private Acts of 1972, Chapter 14 of the Private Acts of 1977, Chapter 92 of the Private Acts of 1963; Chapter 230 of the Private Acts of 1980; Chapter 14 of the Private Acts of 1981 and Chapter 174 of the Private Acts of 1990; and any other acts amendatory thereto, and to amend Chapter 164 of the Private Acts of 1923; as amended by Chapter 538 of the Private Acts of 1923; relative to the charter of the City of Niota, Tennessee.